

DEPARTMENT OF LABOR AND INDUSTRY

CHAPTER 138

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### Sub-Chapter 1

#### Organizational Rule

24.138.101 BOARD ORGANIZATION (1) The board of dentistry hereby adopts and incorporates for the practices of dentistry, dental hygiene and denturistry the organizational rules of the department of labor and industry as listed in chapter 1 of this title. (History: 2-4-201, MCA; IMP, 2-4-201, 37-1-131, 37-4-205, 37-29-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1989 MAR p. 2179, Eff. 12/22/89; TRANS, from Commerce, 2003 MAR p. 2435.)

### Sub-Chapter 2

#### Procedural Rules

24.138.201 PROCEDURAL RULES (1) The board of dentistry hereby adopts and incorporates for the practices of dentistry, dental hygiene and denturistry the procedural rules of the department of labor and industry as listed in chapter 2 of this title. (History: 2-4-201, MCA; IMP, 2-4-201, 37-1-131, 37-4-205, 37-29-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1989 MAR p. 2179, Eff. 12/22/89; TRANS, from Commerce, 2003 MAR p. 2435.)

24.138.202 PUBLIC PARTICIPATION (1) The board of dentistry hereby adopts and incorporates for the practices of dentistry, dental hygiene and denturistry by this reference the public participation rules of the department of commerce as listed in chapter 2 of this title. (History: 2-3-103, MCA; IMP, 2-3-103, 37-1-131, 37-4-205, 37-29-201, MCA; NEW, 1978 MAR p. 1332, Eff. 8/25/78; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1989 MAR p. 2179, Eff. 12/22/89; TRANS, from Commerce, 2003 MAR p. 2435.)

### Subchapter 3

#### Definitions

24.138.301 DEFINITIONS For the purposes of this chapter, the following definitions apply:

(1) "Advertisement" is any communication made or disseminated to the public in any manner designed to attract public attention to the practice of a dentist who is licensed to practice dentistry in Montana.

(2) "Bait and switch advertising" is an alluring but

insincere offer to sell a product or provide a service that the advertiser, in truth, does not intend or want to sell and which is designed to switch the consumer from purchasing the advertised product or service to another product or service, usually at a higher fee or on a basis more advantageous to the advertiser.

(3) "Coronal polishing" is a dental procedure limited to the utilization of abrasive agents on the coronal surfaces of natural and restored teeth for the purpose of plaque and extrinsic stain removal.

(4) "Direct supervision", for the purpose of ARM 24.138.406, means the provisions of allowable functions by dental auxiliaries with the intent and knowledge of the dentist and while the supervising dentist is on the premises.

(5) "Discounted fee" is a fee offered or charged by a person or organization for any dental product or service that is less than the fee the person or organization usually offers or charges for the product or service but does not include products or services explicitly offered free of charge.

(6) "Material fact" is any fact that an ordinary, reasonable and prudent person would need to know or rely upon in making an informed decision concerning dental care or the selection of a dentist to serve his or her particular needs.

(7) "Prophylaxis" is a preventative and therapeutic dental health treatment process by which gingival irritants, including any existing combination of calculus deposits, plaque, material alba, accretions and stains are removed supragingivally and/or subgingivally from the natural and restored surfaces of teeth by a method or methods, which may include scaling, root planing and subgingival curettage, that are most suitable for the patient, by an appropriately licensed dentist or licensed dental hygienist.

(8) "Retired or nonpracticing dentist or dental hygienist" is a person who has surrendered or allowed the individual's license to expire for non-disciplinary reasons and has ceased to practice the individual's profession for remuneration.

(9) "Volunteer licensee" is a dentist or dental hygienist licensed according to rule to provide dental healthcare related diagnosis, care, or treatment without receiving or expecting to receive, compensation or any other form of remuneration. (History: 37-1-131, 37-4-205, 37-4-340, 37-29-201, MCA; IMP, 37-4-101, 37-4-205, 37-4-340, 37-4-408, 37-29-201, MCA; NEW, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2004 MAR p. 1955, Eff. 8/20/04; AMD, 2005 MAR p. 1396, Eff. 7/29/05.)

#### Sub-Chapter 4

#### General Provisions

24.138.401 INTRODUCTION (1) No provisions in these rules shall be interpreted so as to conflict or be in

contradiction with Montana statutes. (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-4-101, 37-4-401, 37-29-102, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1993 MAR p. 393, Eff. 3/26/93; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

|                                                                            |       |
|----------------------------------------------------------------------------|-------|
| <u>24.138.402 FEE SCHEDULE</u> (1) Original                                |       |
| application fee for all licensees                                          | \$100 |
| (2) Credentialing fee for dentists                                         | 500   |
| (3) Credentialing fee for dental hygienists                                | 75    |
| (4) Local anesthesia certificate application fee                           | 20    |
| (5) Written examination fee for denturists paid directly to testing agency | 200   |
| (6) Jurisprudence examination fee for all licensees                        | 85    |
| (7) Jurisprudence re-examination fee                                       | 40    |
| (8) Active renewal fee for dentists                                        | 153   |
| (9) Active renewal fee for dental hygienists                               | 70    |
| (10) Active renewal fee for denturists                                     | 100   |
| (11) Inactive renewal fee for dentists                                     | 153   |
| (12) Inactive renewal fee for dental hygienists                            | 70    |
| (13) Inactive renewal fee for denturists                                   | 100   |
| (14) Late renewal penalty                                                  | 100   |
| (15) Duplicate wall certificate (computer printed)                         | 10    |
| (16) Duplicate wall certificate (hand lettered)                            | 30    |
| (17) Lists                                                                 | 30    |
| (18) Laws and rules packet                                                 | 10    |
| (19) Copies (per page, over 50 pages)                                      | 0.20  |
| (20) Limited access permit application fee                                 | 50    |
| (21) Limited access permit renewal fee                                     | 20    |
| (22) Volunteer license, original or renewal                                | 5     |

(History: 37-1-131, 37-4-205, 37-4-340, 37-4-405, MCA; IMP, 37-1-134, 37-4-301, 37-4-303, 37-4-307, 37-4-340, 37-4-402, 37-4-403, 37-4-405, 37-4-406, 37-29-304, MCA; NEW, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2004 MAR p. 1955, Eff. 8/20/04.)

24.138.403 MANDATORY CPR (1) All licensed active status dentists, dental hygienists and denturists shall possess a current CPR or advanced cardiac life support (ACLS) card.

(2) Licensees shall maintain a current CPR or ACLS card on the premises and provide a copy to the board upon request.

(3) Licensees shall affirm the expiration date of the CPR or ACLS card on the annual renewal. The board may audit a licensee for compliance of a current CPR or ACLS card. An active licensee who practices without a current CPR or ACLS card may be subject to disciplinary action by the board. (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-4-307, 37-4-406, 37-29-401, MCA; NEW, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1999 MAR p. 209, Eff. 1/29/99; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

#### 24.138.404 JUSTIFIABLE CRITICISM AND EXPERT TESTIMONY

(1) Licensees shall report to the board instances of gross mistreatment and evidence of continual faulty treatment by other licensees. If the board determines that evidence of mistreatment exists, the patient should be informed of his or her present oral health status. Licensees shall not comment disparagingly about the services of other licensees; however, if they have reasonable cause to believe their concerns are well founded, they should address them to the board. Licensees may provide expert testimony in a judicial or administrative action so long as they are not paid a contingent fee. (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-1-131, 37-1-308, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.405 MANAGEMENT OF INFECTIOUS WASTE (1) Each licensee licensed by the board shall store, transport off the premises and dispose of infectious wastes, as defined in 75-10-1003, MCA, in accordance with the requirements set forth in 75-10-1005, MCA.

(2) Used sharps are properly packaged and labeled within the meaning of 75-10-1005(1)(a), MCA, when this is done as required by the occupational safety and health administration (OSHA) regulation contained in 29 CFR 1910.1030, as amended and published in the Federal Register, volume 66, on January 18, 2001 beginning at page 5325, which is hereby incorporated by reference. Copies of the federal regulation referenced above are available for public inspection in the offices of the Board of Dentistry, 301 South Park, 4th Floor, Helena, Montana 59620-0513, or via the internet at <http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html#page1>. (History: 37-1-131, 37-4-205, 37-29-201, 75-10-1006, MCA; IMP, 75-10-1006, MCA; NEW, 1992 MAR p. 200, Eff. 3/6/92; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.406 FUNCTIONS FOR DENTAL AUXILIARIES

(1) Allowable functions for a dental auxiliary practicing under the direct supervision of a licensed dentist shall include dental procedures as allowed by board rule and subject to (2) below, in which:

(a) the auxiliary was instructed and qualified to perform in a dental assisting program accredited by the commission on dental accreditation or its successor; or

(b) the auxiliary was instructed and trained by a licensed dentist; or

(c) the auxiliary was instructed and trained in a board-approved continuing education course.

(2) A dental auxiliary will be allowed to perform the following dental procedures including, but not limited to:

(a) making radiographic exposures as prescribed by the supervising dentist; and

(b) initiating, adjusting and monitoring nitrous oxide flow for a patient who has been prescribed and administered



nitrous oxide by a licensed dentist;

- (c) taking impressions for study or working casts;
- (d) removing sutures and dressings;
- (e) applying topical anesthetic agents;
- (f) providing oral health instructions;
- (g) applying topical fluoride agents;
- (h) removing excess cement from coronal surfaces;
- (i) placing and removing rubber dams;
- (j) placing and removing matrices;
- (k) collecting patient data;
- (l) polishing amalgam restorations;
- (m) placing and removing temporary restoration with hand instruments only;
- (n) placing pit and fissure sealants; and
- (o) coronal polishing.

(3) Dental auxiliaries performing any intraoral procedure must be under the direct supervision of a licensed dentist. No dentist shall allow any dental auxiliary to perform the following:

(a) diagnosis and treatment planning as per 37-4-401, MCA;

- (b) cutting hard or soft tissue or extracting teeth;
- (c) prescribing any drugs as per 37-4-401, MCA;
- (d) administering or dispensing any drug, without the prior authorization of the supervising dentist;
- (e) administering intravenous and intramuscular injections or local anesthetic;
- (f) placing, carving or condensing any permanent restorations;
- (g) taking final impressions of the involved arch for crowns, bridges, implant prosthesis, partial or complete dentures;
- (h) bonding or cementing any fixed prosthesis, including veneers, except for provisionals;
- (i) bonding or cementing orthodontic brackets or orthodontic appliances that would provide activation upon cementation;
- (j) placing sulcular medicinal or therapeutic materials;
- (k) periodontal probing; or
- (l) prophylaxis as per ARM 24.138.301.

(4) Dentists shall refrain from delegating to dental auxiliaries any duties or responsibilities regarding patient care that cannot be delegated to dental auxiliaries under 37-4-408, MCA, and board rules.

(5) The assignment of tasks and procedures to dental auxiliaries shall not relieve the dentist from liability for all treatment rendered the patient.

(6) A dentist shall not employ, supervise or otherwise use more dental auxiliaries than the dentist can reasonably supervise in keeping with the dentist's ethical and professional responsibilities.

(7) It shall be the responsibility of the employing dentist to verify that a dental auxiliary's qualifications are in compliance with the statutes and rules of the board of

dentistry.

(8) A dentist licensed to use or direct the use of an x-ray producing device must assure that the radiation source under the dentist's jurisdiction is used only by individuals competent to use it, as per ARM 37.14.1003. Only a licensed dentist is allowed to prescribe radiation dosage and exposure. The dental auxiliary, under the direct supervision of a licensed dentist, will qualify to expose radiographs if the auxiliary:

(a) has graduated from an accredited program of dental assisting, dental hygiene or dentistry accredited by the commission on dental accreditation or its successor; or

(b) has been certified in dental radiology in another state; or

(c) has been certified in dental radiology by the U.S. military; or

(d) has successfully completed a board-approved radiology written and practical examination. To prepare for the examination, the auxiliary may, in any combination:

(i) complete an available didactic course in radiology;

(ii) complete an available clinical course in radiology;

(iii) train didactically with the supervising dentist;

(iv) train clinically with the supervising dentist.

(9) No dentist shall allow a dental auxiliary not qualified as stated above to expose radiographs except during one training period that:

(a) is under the direct supervision of the dentist; and

(b) is not longer than six calendar months commencing from the time the auxiliary begins training.

(10) A list of board-approved examinations will be kept on file in the board office.

(11) The board will accept documentation of (8)(a) through (c) above as certification for radiographic exposure. The board will issue a certificate to those auxiliaries who complete (8)(d) as their means to qualify for radiographic exposure. (History: 37-4-205, 37-4-408, MCA; IMP, 37-4-408, MCA; NEW, 1995 MAR p. 2795, Eff. 11/23/95; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

#### 24.138.407 FUNCTIONS FOR DENTAL HYGIENISTS

(1) Allowable functions for the dental hygienist practicing under the supervision of a licensed dentist shall include dental procedures as allowed by Title 37, chapter 4, MCA, and board rule, and subject to (2) below, in which:

(a) the hygienist was instructed and qualified to perform in a school of dental hygiene accredited by the commission on dental accreditation or its successor; or

(b) the hygienist was instructed and trained by a licensed dentist; or

(c) the hygienist was instructed and trained in a board acceptable continuing education course; or

(d) the hygienist is functioning in the capacity of a dental auxiliary as allowed by board rule.

(2) A dental hygienist will be allowed to perform the following dental auxiliary functions, under general supervision, including, but not limited to:

(a) making radiographic exposures, as prescribed by the supervising dentist;

(b) taking impressions for study or working casts;

(c) removing sutures and dressings;

(d) applying topical anesthetic agents;

(e) providing oral health instruction;

(f) applying topical fluoride agents;

(g) removing excess cement from coronal surfaces;

(h) placing and removing rubber dams;

(i) placing and removing matrices;

(j) collecting patient data;

(k) polishing amalgam restorations;

(l) placing pit and fissure sealants; and

(m) coronal polishing.

(3) A dental hygienist shall not be allowed to perform the following:

(a) diagnosis and treatment planning as per 37-4-401, MCA;

(b) cutting hard or soft tissue (except root planing and soft tissue curettage) or extracting teeth;

(c) prescribing any drug as per 37-4-401, MCA;

(d) administering or dispensing any drugs, without the prior authorization and direct supervision of the supervising dentist. This does not pertain to topical agents or to sulcular medicaments;

(e) placing, carving or condensing any permanent restorations;

(f) taking final impressions of the involved arch for crowns, bridges, implant prosthesis, partial or complete dentures;

(g) bonding or cementing orthodontic brackets, or orthodontic appliances that would provide activation upon cementation;

(h) bonding or cementing any fixed prosthesis, including veneers, except for provisionals.

(4) Dentists shall refrain from delegating to dental hygienists any duties or responsibilities regarding patient care that cannot be delegated to dental hygienists under 37-4-401, MCA, and board rules.

(5) The assignment of tasks and procedures to a dental hygienist shall not relieve the dentist from liability for all treatment rendered the patient.

(6) A dentist shall not employ, supervise or otherwise use more dental hygienists than the dentist can reasonably supervise in keeping with the dentist's ethical and professional responsibilities.

(7) It shall be the responsibility of the employing dentist to verify that a dental hygienist's qualifications are in compliance with the statutes and rules of the board of

dentistry.

(8) A dentist licensed to use or direct the use of an x-ray producing device must assure that the radiation source under the dentist's jurisdiction is used only by individuals competent to use it, as per ARM 37.14.1003. (History: 37-1-131, 37-4-205, 37-4-408, MCA; IMP, 37-4-401, 37-4-405, 37-4-408, MCA; Eff. 12/31/72; AMD, Eff. 7/5/76; AMD, Eff. 9/23/77; AMD, 1978 MAR p. 1182, Eff. 8/11/78; AMD, 1979 MAR p. 1497, Eff. 11/30/79; AMD, 1980 MAR p. 1188, Eff. 4/11/80; AMD, 1981 MAR p. 686, Eff. 7/17/81; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 921, Eff. 6/15/84; AMD, 1985 MAR p. 1323, Eff. 9/13/85; AMD, 1987 MAR p. 155, Eff. 2/14/87; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1991 MAR p. 2415, Eff. 12/13/91; AMD, 1994 MAR p. 1120, Eff. 4/29/94; AMD, 1995 MAR p. 2795, Eff. 11/23/95; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, 2003 MAR p. 2435.)

#### 24.138.408 SERVICE TO THE PUBLIC AND QUALITY OF CARE

(1) The licensees' primary obligation of service to the public shall include the delivery of quality care, competently and timely, within the bounds of the clinical circumstances presented by the patient. Quality of care shall be a primary consideration of the professional practitioner. (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-1-131, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

#### 24.138.409 PATIENT SELECTION

(1) While licensees, in serving the public, may exercise reasonable discretion in selecting patients for their practices, licensees shall not refuse to accept patients into their practice or deny service to patients because of the patient's race, creed, color, sex, or national origin. (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-1-131, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

#### 24.138.410 PATIENT RECORDS

(1) Licensees are obliged to safeguard the confidentiality of patient records. Licensees shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Upon request of a patient, licensees shall provide any information that will be beneficial for the future treatment of that patient. (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-1-131, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

#### 24.138.411 EMERGENCY SERVICE

(1) Dentists shall be obliged to make reasonable arrangements for the emergency care

of their patients of record.

(2) Dentists shall be obliged when consulted in an emergency by patients not of record to make reasonable arrangements for emergency care. If treatment is provided, the dentist, upon completion of such treatment, is obliged to return the patient to his or her regular dentist unless the patient expressly reveals a different preference. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-4-101, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.412 CONSULTATION AND REFERRAL (1) Dentists shall seek consultation with those licensees or other health care professionals who have special skills, knowledge and experience whenever needed to safeguard the welfare of the patient.

(2) When a patient visits or is referred by his dentist to specialists or consulting dentists for consultation:

(a) The specialists or consulting dentists upon completion of the patient's care shall return the patient, unless the patient expressly reveals a different preference, to the referring dentists, or if none, to the dentists of record for future care.

(b) The specialists shall be obliged when there is no referring dentist and upon a completion of their treatment to inform patients when there is a need for further dental care. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-4-101, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.413 REBATE AND SPLIT FEES (1) Licensees shall refrain from accepting or tendering "rebates" or "split fees", which are commissions paid to others for referral of business. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.414 DISPLAY OF LICENSES (1) All licensees must display their current license in their place of employment in a noticeable area for review by the public. If a licensee is working in more than one location, a copy of the license can be duplicated for display in another office or offices. (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-4-205, 37-4-326, MCA; NEW, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.415 NINETY-DAY GUARANTEE REQUIRED BY DENTURISTS

(1) The board interprets 37-29-404(2), MCA, "denturist services" to be new work completed in that office. The 90-day guarantee starts from the day of final insertion. (History:

37-29-201, MCA; IMP, 37-29-404, MCA; NEW, 1999 MAR p. 209, Eff. 1/29/99; TRANS, from Commerce, 2003 MAR p. 2435.)

24.138.416 PRIOR REFERRAL FOR PARTIAL DENTURES (1) The board of dentistry interprets 37-29-403(1)(b), MCA, to mean that all partial denture patients shall be referred to a dentist to determine what is needed prior to the denturist starting his services. (History: 37-1-131, 37-29-201, MCA; IMP, 37-29-403, MCA; NEW, 1990 MAR p. 222, Eff. 1/26/90; AMD, 1992 MAR p. 2132, Eff. 9/25/92; TRANS, from Commerce, 2003 MAR p. 2435.)

24.138.417 DENTAL SCREENINGS (1) Dental health screenings do not constitute the practice of dentistry or dental hygiene. (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-101, 37-4-205, 37-4-401, MCA; NEW, 2003 MAR p. 2435, Eff. 10/31/03.)

Rules 24.138.418 and 24.138.419 reserved

24.138.420 SCOPE OF TREATMENT FOR VOLUNTEER LICENSEES

(1) Volunteer licensees shall practice dentistry or dental hygiene within the scope of their professional license.

(2) Volunteer licensees shall provide dental healthcare services to indigent or uninsured patients in underserved or critical need areas of the state as determined by state or federal government.

(3) Diagnosis, treatment plans, and treatment are at the discretion of the volunteer licensee, within the scope of the volunteer licensee's training, competency and qualifications. (History: 37-1-131, 37-4-204, 37-4-340, MCA; IMP, 37-4-340, MCA; NEW, 2004 MAR p. 1955, Eff. 8/20/04.)

Rules 24.138.421 through 24.138.424 reserved

24.138.425 LIMITED ACCESS PERMIT TREATMENT GUIDELINES-PRACTICING UNDER PUBLIC HEALTH SUPERVISION (1) Pursuant to 37-4-405, MCA, the LAP dental hygienist practicing under public health supervision shall adhere to the following medical health guidelines:

(a) The LAP dental hygienist shall gather and review the patient's current medical history, including but not limited to:

- (i) diagnosed chronic diseases;
- (ii) surgical procedures;
- (iii) medications;
- (iv) drug allergies and/or adverse reactions;
- (v) blood pressure and pulse rate; and
- (vi) previous difficulty associated with dental procedures.

(b) The LAP dental hygienist may provide dental hygiene preventative services to a patient without prior physician or dentist authorization unless the patient has:

- (i) a medical condition requiring pre-medication;

- (ii) uncontrolled hypertension; or
- (iii) uncontrolled diabetes.
- (c) If a patient has one or more severe systemic diseases, the LAP dental hygienist shall consult with a physician or dentist regarding the appropriateness of treatment and the conditions under which to provide dental hygiene preventative services.
- (2) Pursuant to 37-4-405, MCA, the LAP dental hygienist practicing under public health supervision shall adhere to the following dental health guidelines:
  - (a) The LAP dental hygienist shall provide to the public health facility a disclaimer indicating that the dental hygiene preventative services provided do not preclude the need for a comprehensive examination by a licensed dentist.
  - (b) The LAP dental hygienist shall recommend patient referral to a licensed Montana dentist once each calendar year, or as the patient's dental health status indicates. The patient's records shall be made available for continued comprehensive dental care.
  - (c) The LAP dental hygienist shall document the patient dental history and conduct a screening appraisal prior to providing dental hygiene preventative services.
  - (d) If a LAP dental hygienist exposes radiographs, a licensed Montana dentist shall evaluate the radiographs within 30 days of exposure.
  - (e) The LAP dental hygienist shall maintain a dental record including, but not limited to:
    - (i) adverse medical history;
    - (ii) dental history and charting;
    - (iii) results of dental screening;
    - (iv) summary of discussions and consultations with a physician(s) and/or dentist(s);
    - (v) dental hygiene preventative services provided; and
    - (vi) any radiographs exposed.
  - (f) Patient dental records shall be the responsibility of the public health facility where the dental hygiene preventative services are provided. (History: 37-1-131, 37-4-205, 37-4-405, MCA; IMP, 37-4-405, MCA; NEW, 2004 MAR p. 1955, Eff. 8/20/04.)

## Sub-Chapter 5

### Licensing

#### 24.138.501 APPROVED DENTAL AND DENTAL HYGIENE SCHOOLS

(1) The state of Montana will accept all candidates who are graduates of dental schools that have been accredited by the commission on dental accreditation (CODA), or dental hygiene schools pursuant to 37-4-302, MCA. (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-302, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.502 INITIAL LICENSURE OF DENTISTS BY EXAMINATION

(1) All applicants shall submit a completed application on the form furnished by the board or its designee. The application must include the following:

(a) an original score card from the joint commission on national dental examinations showing the applicant's score and passage of the written examination administered by the joint commission on national dental examinations;

(b) certification of successful passage of a board approved clinical practical examination. The board accepts, in satisfaction of the practical part, successful completion of an examination administered by the western regional examining board (WREB) or by the central regional dental testing service (CRDTS) taken after January 1, 2000. Both examinations shall be valid for the purpose of initial licensure for a period of five years from the date of successful passage of the examination;

(c) affidavits from three persons not related to the candidate, of the candidate's good moral character;

(d) verification of graduation from a dental school accredited by the American dental association commission on dental accreditation, or its successor. Verification must consist of an original dental school transcript and a diploma or a letter from the dean of the school of dentistry, program director, or the dean's equivalent attesting to the program of study and that graduation status was attained;

(e) license verifications from all jurisdictions where the licensee has held or holds a license;

(f) copies of all other state professional licenses that are held by the applicant;

(g) a copy of a self-query of the national practitioners data bank;

(h) a copy of the applicant's current CPR card;

(i) a photograph of the applicant;

(j) the jurisprudence examination fee; and

(k) the application fee.

(2) The applicant shall not be physically or mentally impaired by use of addictive drugs, alcohol or any other drug or substance or by mental or physical illness which in the determination of the board renders the individual unfit or incapable of practicing dentistry.

(3) A jurisprudence examination must be taken once the application for licensure has been approved. Applicants shall successfully pass the jurisprudence examination with a final grade of at least 75%, prior to issuance of a license.

(4) Application material remains valid for six months from the time it is received in the office. If the jurisprudence examination has not been successfully passed within six months, the application will be considered incomplete and a new application and fees must be submitted.

(History: 37-1-131, 37-4-205, 37-4-301, MCA; IMP, 37-4-301, MCA; Eff. 12/31/72; AMD, Eff. 9/4/74; AMD, 1977 MAR p. 253, Eff. 10/24/77; AMD, 1980 MAR p. 1188, Eff. 4/11/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff.



7/1/81; AMD, 1982 MAR p. 1476, Eff. 7/30/82; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1989 MAR p. 2187, Eff. 12/22/89; AMD, 1991 MAR p. 2415, Eff. 12/13/91; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 2002 MAR p. 1488, Eff. 5/17/02; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2005 MAR p. 1396, Eff. 7/29/05.)

24.138.503 INITIAL LICENSURE OF DENTAL HYGIENISTS BY EXAMINATION (1) Each applicant shall submit a completed application on a form furnished by the board or its designee. The application must include:

(a) an original score card from the joint commission on national dental examinations showing the applicant's score on and passage of the written dental hygiene examination administered by the joint commission on national dental examinations;

(b) certification of successful passage of a board approved clinical practical examination. The board accepts, in satisfaction of the practical part, successful completion of an examination administered by the western regional examining board (WREB) or by the central regional dental testing service (CRDTS) taken on or after January 1, 2000. Both examinations shall be valid for the purpose of initial licensure for a period of five years from the date of successful passage of the examination;

(c) affidavits from three persons not related to the candidate, of the candidate's good moral character;

(d) verification of graduation from a dental hygiene school accredited by the American dental association commission on dental accreditation, or its successor. Verification must consist of an original dental hygiene school transcript and a diploma or a letter from the dean of the school of dental hygiene, program director, or dean's equivalent attesting to the program of study and that graduation status was attained;

(e) license verifications from all jurisdictions where the licensee has held or holds a license;

(f) copies of all other state professional licenses that are held by the applicant;

(g) a copy of a self-query of the national practitioner data bank;

(h) a copy of the applicant's current CPR card;

(i) a photograph of the applicant;

(j) the jurisprudence exam fee; and

(k) the application fee.

(2) The applicant shall not be physically or mentally impaired by use of addictive drugs, alcohol or any other drugs or substances, or by mental or physical illness, which in the determination of the board renders the individual unfit or incapable of practicing dental hygiene.

(3) A jurisprudence examination must be taken once the application for licensure has been approved. Applicants must successfully pass the jurisprudence examination with a final grade of at least 75% prior to issuance of a license.

(4) Application material remains valid for six months from the time it is received in the office. If the jurisprudence examination has not been successfully passed before the end of six months, the application will be considered incomplete and a new application and fees must be submitted. (History: 37-1-131, 37-4-205, 37-4-402, 37-4-403, MCA; IMP, 37-4-401, 37-4-402, 37-4-403, MCA; Eff. 12/31/72; AMD, Eff. 10/4/76; AMD, 1980 MAR p. 1188, Eff. 4/11/80; AMD, 1981 MAR p. 686, Eff. 7/17/81; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 1476, Eff. 7/30/82; AMD, 1985 MAR p. 1323, Eff. 9/13/85; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1989 MAR p. 2187, Eff. 12/22/89; AMD, 1991 MAR p. 2026, Eff. 11/1/91; AMD, 1991 MAR p. 2415, Eff. 12/13/91; AMD, 1993 MAR p. 393, Eff. 3/26/93; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 2002 MAR p. 1488, Eff. 5/17/02; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2005 MAR p. 1396, Eff. 7/29/05.)

Rule 24.138.504 reserved

24.138.505 DENTIST LICENSURE BY CREDENTIALS (1) The board shall provide for licensing of a dentist without additional examination, except a jurisprudence examination, if the applicant meets each of the following:

(a) submits an application on a form provided by the board or its designee;

(b) pays the appropriate fees, including credentialing fee, jurisprudence exam fee and application fee;

(c) provides certification to the board that the dentist:

(i) is a graduate of a dental school accredited by the commission on dental accreditation for the American dental association, or its successor;

(ii) has successfully passed the national board examination and submits an original joint commission on national board score card;

(iii) has successfully completed a clinical practical examination for licensure administered by the western regional examining board (WREB) or one which is substantially equivalent to the current WREB examination, or administered on or after January 1, 2000, by the central regional dental testing service (CRDTS), or a combination of examinations which are substantially equivalent to the current WREB examination approved by the Montana board of dentistry. Applicants using any examination(s) other than WREB or CRDTS, as defined above, will be reviewed on a case-by-case basis;

(iv) is in good standing from all jurisdictions where the applicant is licensed or has held a license. If the dentist is employed by the federal government, the dentist must be in good standing with the employing federal agency;

(v) is currently engaged in the practice of clinical, direct patient care dentistry, and has been actively practicing within the last five years immediately preceding application, for a total accumulation of 3,000 hours of

experience, as demonstrated by the following information:

- (A) address of practice location(s);
- (B) length of time at location(s);
- (C) a letter from all malpractice insurance carriers defining years when insured and any claims history;
- (D) DEA registration number, if any;
- (E) documentation from a commanding officer regarding length of service, duties and responsibilities and any adverse actions or restrictions, if the dentist is serving in the United States federal service;
- (F) documentation from the dean or appropriate administration of the institution regarding length and terms of employment and their duties and responsibilities and any adverse actions or restrictions, if the dentist is employed by a dental school; and
- (G) proof of hours completed within a residency program, to be credited toward the dental practice requirement, if the dentist is practicing within a residency program;
- (vi) submits documentation of all unresolved or adverse decisions based on complaints, investigations, review procedures or other disciplinary proceedings undertaken by a state, territorial, local or federal dental licensing jurisdiction, dental society or law enforcement agency relating to criminal or fraudulent activity, dental malpractice or negligent dental care;
- (vii) has completed at least 60 hours of continuing education related to clinical dentistry in the three years immediately preceding application for a license in this state. Courses submitted must meet board approvals as defined in ARM 24.138.2102; and
- (viii) is not physically or mentally impaired by use of addictive drugs, alcohol or any other drug or substance or by mental or physical illness which in the determination of the board renders the individual unfit or incapable of practicing dentistry;
- (d) submits a current CPR card;
- (e) provides affidavits from three persons not related to the candidate, of the applicant's good moral character; and
- (f) submits copies of all other state professional licenses.

(2) The jurisprudence examination must be successfully passed once the application for licensure has been approved. Applicants must successfully pass the jurisprudence examination with a final grade of at least 75%, prior to issuance of a license. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-304, MCA; NEW, 1998 MAR p. 922, Eff. 4/17/98; AMD, 2002 MAR p. 1488, Eff. 5/17/02; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2005 MAR p. 1396, Eff. 7/29/05.)

#### 24.138.506 DENTAL HYGIENIST LICENSURE BY CREDENTIALS

(1) The applicant for dental hygiene licensure by credentials shall meet the following requirements and submit a completed application. The application must include the

following:

(a) a copy of the certificate of graduation from a dental hygiene school accredited by the American dental association commission on dental accreditation, or its successor;

(b) an original score card from the joint commission on national dental examinations showing the applicant's score on and passage of the written dental hygiene examination administered by the joint commission on national dental examinations;

(c) evidence of successful passage of a clinical examination;

(d) evidence of current licensure in another state or territory of the United States and license verification from the licensing board(s) of the state(s) under whose jurisdiction the applicant is licensed or has been licensed;

(e) proof that the applicant has practiced dental hygiene continuously for a minimum of 500 hours during the one year immediately prior to application;

(f) a copy of the applicant's current CPR card;

(g) affidavits from three persons not related to the candidate, of the applicant's good moral character;

(h) copies of all other state professional licenses;

(i) a copy of a self-query of the national practitioner data bank; and

(j) payment of all appropriate fees including a credentialing fee.

(2) The applicant may not be physically or mentally impaired by use of addictive drugs, alcohol or any other drugs or substances, or by mental or physical illness, which in the determination of the board renders the individual unfit or incapable of practicing dental hygiene.

(3) The jurisprudence examination must be successfully passed once the application for licensure has been approved. Applicants shall successfully pass the jurisprudence examination with a final grade of at least 75% prior to issuance of a license.

(4) Application material remains valid for six months from the time it is received in the office. If the jurisprudence examination has not been successfully passed within six months the application will be considered incomplete and a new application and fees must be submitted.

(History: 37-1-131, 37-4-205, 37-4-402, MCA; IMP, 37-1-304, MCA; NEW, 1991 MAR p. 2026, Eff. 11/1/91; AMD, 1994 MAR p. 3090, Eff. 12/9/94; AMD, 2000 MAR p. 1312, Eff. 5/26/00; AMD, 2002 MAR p. 1488, Eff. 5/17/02; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2005 MAR p. 1396, Eff. 7/29/05.)

24.138.507 DENTIST LICENSURE BY CREDENTIALS FOR SPECIALISTS (1) The board shall provide for licensing by credentials of out-of-state licensed specialty dentists without additional examination, except a jurisprudence examination, if the applicant:

(a) submits an application on a form provided by the board or its designee;

(b) pays the appropriate fees, including a credentialing fee, a jurisprudence exam fee, and an application fee;

(c) certifies to the board that the dentist:

(i) is a graduate of a dental school accredited by the commission on dental accreditation for the American dental association (CODA), or its successor;

(ii) has passed the national board examination and submits an original joint commission national board score card;

(iii) has passed or successfully completed:

(A) a general dentistry clinical practice examination for licensure administered by a testing agency; and

(B) a specialty residency of at least two years accredited by CODA or its successor, or a specialty approved by the board;

(iv) is in good standing in all jurisdictions where the applicant is licensed or has held a license. If employed by the federal government, the applicant shall be in good standing with the employing federal agency;

(v) is currently engaged in the practice of clinical, direct patient care dentistry, as demonstrated by any or all of the following:

(A) address of practice location(s);

(B) length of time at location(s);

(C) certification of not less than 1,000 hours per year in clinical direct patient care dentistry;

(D) a letter from all malpractice insurance carriers defining years of coverage and any claims history;

(E) DEA registration number, if any;

(F) documentation from a commanding officer regarding length of service, duties and responsibilities, and any adverse actions or restrictions, if the applicant is serving in the United States federal service; or

(G) documentation from the dean or appropriate administration of the institution regarding length and terms of employment and the applicant's duties, responsibilities and any adverse actions or restrictions, if the applicant is employed by a dental school;

(vi) has completed at least 60 hours of continuing education related to clinical dentistry in the three years immediately preceding application for a Montana license. Courses submitted must meet continuing education requirements as defined in board rule; and

(vii) is not physically or mentally impaired by use of addictive drugs, alcohol or any other drug or substance or by mental or physical illness which, in the determination of the board, renders the applicant unfit or incapable of practicing dentistry;

(d) submits documentation of all unresolved or adverse decisions based on complaints, investigations, review procedures or other disciplinary proceedings undertaken by a state, territorial, local or federal dental licensing

jurisdiction, dental society or law enforcement agency relating to criminal or fraudulent activity, dental malpractice or negligent dental care;

(e) submits documentation from the dean or appropriate administration of the institution regarding any malpractice claims against the applicant during the applicant's residency;

(f) submits a current CPR or ACLS card;

(g) provides affidavits from three persons not related to the applicant regarding the applicant's good moral character; and

(h) submits copies of all other state professional licenses.

(2) A minimum grade of 75% is required for passage of the jurisprudence examination. (History: 37-1-131, 37-4-205, 37-4-301, MCA; IMP, 37-1-304, 37-4-301, MCA; NEW, 2004 MAR p. 1955, Eff. 8/20/04.)

24.138.508 DENTAL HYGIENE LOCAL ANESTHETIC AGENT CERTIFICATION

(1) No licensed dental hygienist shall administer local anesthetic agents during a dental procedure or a dental-surgical procedure unless and until he or she possesses a local anesthetic permit issued by the board.

(2) Application for a local anesthetic certificate by examination shall be made on an application form provided by the board and must include the following:

(a) verification of successful passage of the western regional examining board (WREB) local anesthetic examination within the last five years;

(b) a copy of the applicant's current CPR card;

(c) payment of appropriate fees; and

(d) evidence of having previously received a Montana dental hygiene license, or of being in the process of applying for a Montana dental hygiene license.

(3) Application for a local anesthetic certificate by credentialing shall be made on an application provided by the board and shall include the following:

(a) verification of successful passage of the WREB local anesthetic examination more than five years ago;

(b) a copy of the applicant's current CPR card;

(c) payment of appropriate fees;

(d) evidence that the applicant is in the process of applying for a Montana dental hygiene license or has previously received a Montana dental hygiene license;

(e) verification of successful completion of a local anesthetic agent course given by a commission on dental accreditation (CODA) accredited dental or CODA accredited dental hygiene school. The only verification that will be accepted is one of the following:

(i) a letter from the school with the school seal affixed (photocopies will not be accepted); or

(ii) a notarized copy of the certification of local anesthetic agent course completion; or

(iii) a notarized copy of the dental or dental hygiene transcript with the local anesthetic agent course recorded;

(f) copies of any local anesthetic agent authorization(s) held in other states; and

(g) written verification that the applicant has practiced administering local anesthetic agents within the last five years.

(4) An applicant who wishes to reactivate a local anesthesia certification in conjunction with the reactivation or reinstatement of a dental hygiene license shall:

(a) verify passage of a WREB local anesthetic examination;

(b) submit an application provided by the board;

(c) submit a copy of the applicant's current CPR card;

(d) verify successful completion of a local anesthetic agent course given by a CODA accredited dental or CODA accredited dental hygiene school. The only verification that will be accepted is one of the following:

(i) a letter from the school with the school seal affixed (photocopies will not be accepted); or

(ii) a notarized copy of the certification of local anesthetic agent course completion; or

(iii) a notarized copy of the dental or dental hygiene transcript with the local anesthetic agent course recorded;

(e) copies of any local anesthetic agent license held in other states; and

(f) written verification that the applicant has practiced administering local anesthetic agents within the last five years. (History: 37-1-131, 37-4-205, 37-4-402, MCA; IMP, 37-4-401, 37-4-402, MCA; NEW, 2000 MAR p. 1312, Eff. 5/26/00; AMD, 2002 MAR p. 1488, Eff. 5/17/02; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2004 MAR p. 1955, Eff. 8/20/04.)

24.138.509 DENTAL HYGIENE LIMITED ACCESS PERMIT (1) A Montana licensed dental hygienist may submit a completed application for a limited access permit (LAP) on a form provided by the board.

(2) The board shall issue a LAP to a licensed dental hygienist who:

(a) possesses an active, unrestricted Montana dental hygiene license;

(b) certifies that the dental hygienist has actively practiced either:

(i) 2,400 clinical hours over the last three years; or

(ii) a career total of 3,000 hours, with a minimum of 350 hours in each of the last two years;

(c) provides the name of the applicant's current liability insurance carrier, and policy number and expiration date;

(d) provides evidence of completion of 12 additional continuing education credits for the three-year cycle immediately preceding LAP application; and

(e) pays all appropriate fees.

(3) A LAP dental hygienist shall maintain 48 hours of continuing education credits for each three-year cycle

following initial issuance of a LAP. The 48 hours includes the 36 hours required for a dental hygiene license and an additional 12 hours required for the LAP.

(4) LAPs must be renewed annually. (History: 37-1-131, 37-4-205, 37-4-301, 37-4-405, MCA; IMP, 37-4-405, MCA; NEW, 2004 MAR p. 1955, Eff. 8/20/04.)

24.138.510 DENTURIST EXAMINATION (1) The examinations approved by the board for licensure shall include a written examination, a clinical/practical examination on a live patient and a jurisprudence examination.

(2) Grading will be done by Montana licensed dentists and denturists conducting the examination or the board's designees.

(3) The chief examiner shall be the denturist currently serving on the board of dentistry, or the board's designees.

(4) The board shall retain applicant's scores as a part of the permanent record of the applicant.

(5) In order to guarantee security of the test papers and protect the privacy of the applicant, examination papers may not be copied or duplicated.

(6) The applicant shall take and verify passage of the jurisprudence examination.

(7) The applicant must be approved by the board for internship or meet the minimum experience requirements set forth in 37-29-303, MCA.

(8) The applicant shall take and verify successful passage of the written examination, approved by the board.

(9) The applicant shall take and verify successful passage of the clinical/practical examination, approved by the board.

(10) The dates and times of both the written and clinical examination will be set by the board.

(11) An applicant may retake a failed examination, at the next scheduled examination date, upon request to the board and payment of the appropriate fee. (History: 37-1-131, 37-29-201, MCA; IMP, 37-29-305, MCA; NEW, 1986 MAR p. 1498, Eff. 9/12/86; AMD, 1986 MAR p. 1897, Eff. 11/15/86; AMD, 1991 MAR p. 2424, Eff. 12/13/91; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1997 MAR p. 1265, Eff. 7/22/97; AMD, 1999 MAR p. 209, Eff. 1/29/99; AMD, 2000 MAR p. 1312, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2005 MAR p. 1396, Eff. 7/29/05.)

24.138.511 DENTURIST APPLICATION REQUIREMENTS

(1) Written application for denturist licenses shall be made on forms prescribed by the board and provided by the department.

(2) The application fee and required documentation must be submitted to the board of dentistry and must include:

(a) official transcripts from all colleges or educational institutions must be provided directly to the board office by the college or institution;

(b) certification of successful passage of a written



denturistry examination approved by the board;

- (c) certification of successful passage of a clinical/practical denturistry examination approved by the board;
- (d) verification of written test scores sent directly to the board office from the testing agency;
- (e) verification of clinical/practical test scores sent directly to the board office from the testing agency;
- (f) documentation that the applicant has completed formal training of not less than two years at an educational institution as set forth in 37-29-303, MCA;
- (g) documentation that the school is an educational institution accredited by a national or regional accrediting agency recognized by the Montana state board of regents;
- (h) documentation that the curriculum includes those courses set forth in 37-29-303, MCA;
- (i) a copy of a diploma from a recognized school as stated in 37-29-303, MCA;
- (j) license verification(s) from all jurisdictions where the licensee has held/holds a license;
- (k) copies of all other state licenses that are held by the licensee;
- (l) a copy of a current CPR card;
- (m) three affidavits of good moral character;
- (n) a copy of a self-query of the national practitioner data bank;
- (o) photograph of the applicant;
- (p) jurisprudence examination fee; and
- (q) application fee.

(3) Licensee must successfully pass the jurisprudence examination.

(4) Licensee shall submit a copy of the board approved intern application including intern reports, showing internship clinical training, which are signed by the monitoring licensed dentist.

(5) The board may require application materials to be updated prior to the applicant taking the jurisprudence examination. (History: 37-1-131, 37-29-201, MCA; IMP, 37-29-303, 37-29-304, 37-29-306, MCA; NEW, 1986 MAR p. 1498, Eff. 9/12/86; AMD, 1991 MAR p. 2424, Eff. 12/13/91; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1999 MAR p. 209, Eff. 1/29/99; AMD, 2000 MAR p. 1312, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2005 MAR p. 1396, Eff. 7/29/05.)

24.138.512 DENTURIST INTERN (1) To be eligible for internship, the applicant must have completed all requirements for licensure set forth in 37-29-303(1), MCA.

(2) A dentist intern is a person engaged in a clinical training program under the direct supervision of a licensed dentist. Such training program shall consist of 2,000 clock hours of training and performance in at least the following fields of practice:

|                           |                  |
|---------------------------|------------------|
| (a)(i) patient charting   | 36 hours minimum |
| (ii) operatory sanitation | 36 hours minimum |
| (iii) oral examination    | 36 hours minimum |

|                                                                     |                  |
|---------------------------------------------------------------------|------------------|
| (iv) impressions, preliminary and final (pour models, custom trays) | 36 hours minimum |
| (v) bite registrations                                              | 12 hours minimum |
| (vi) articulations                                                  | 12 hours minimum |
| (vii) set ups                                                       | 12 hours minimum |
| (viii) try ins                                                      | 12 hours minimum |
| (ix) processing (wax up, flask boil out, packing, grind-polish)     | 36 hours minimum |
| (x) delivery-post adjustment                                        | 36 hours minimum |
| (b) processed relines (one plate - one unit)                        | 24 units         |
| (c) tooth repairs                                                   | 48 hours minimum |
| (d) broken or fractured plates or partials                          | 48 hours minimum |

(3) An intern shall file a monthly report with the board, on a form provided by the department and attested to by his supervising denturist. The report shall state the number of hours or units completed in each field of practice identified in (2) above.

(4) No licensed denturist may supervise more than one intern at a time.

(5) Each intern shall be provided a separate work station in the laboratory area, containing standard denturistry equipment, i.e., lathe, torch and storage space. Operatory facilities and other equipment will be shared with the intern. The intern shall provide his own necessary hand tools.

(6) No intern may practice once the internship has been completed until after successful passage of the clinical examination and the applicant has met all other requirements for licensure (History: 37-1-131, 37-29-201, 37-29-303, MCA; IMP, 37-29-303, MCA; NEW, 1993 MAR p. 393, Eff. 3/26/93; AMD, 1999 MAR p. 209, Eff. 1/29/99; AMD, 2000 MAR p. 1312, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2435.)

Rule 24.138.513 reserved

24.138.514 APPLICATION TO CONVERT AN INACTIVE STATUS LICENSE TO AN ACTIVE STATUS LICENSE (1) Licensees may place their license on inactive status upon written request to the board.

(2) An inactive status license does not entitle the holder to practice dentistry, dental hygiene or denturistry in the state of Montana.

(3) The board may consider a licensee request for reactivation upon written request to the board if the applicant provides, but is not limited to, the following:

- (a) a completed form approved by the board;
- (b) evidence that the applicant has actively and competently practiced in this or another jurisdiction within the last five years;
- (c) license verification from all jurisdictions where the applicant is licensed or has held a license;
- (d) evidence of continuing education as follows:
  - (i) 60 hours of continuing education for a dentist, for

the three most current renewal years;

(ii) 36 hours of continuing education for a dental hygienist, for the three most current renewal years; or

(iii) 36 hours of continuing education for a denturist, for the three most current renewal years;

(e) a current CPR or ACLS card; and

(f) any other information the board may require for evidence of operative competency.

(4) If the applicant has been out of practice for longer than five years, the applicant shall provide evidence of, but not limited to, the following:

(a) completion of:

(i) a clinical competency course(s) or skills assessment analysis approved by the board; or

(ii) a board approved regional or state examination within the most recent five years;

(b) a license verification from all jurisdictions where the applicant is licensed or has held a license;

(c) evidence of continuing education as follows:

(i) 60 hours of continuing education for a dentist for the three most current years;

(ii) 36 hours of continuing education for a dental hygienist for the three most current years; or

(iii) 36 hours of continuing education for a denturist for the three most current years;

(d) a current CPR or ACLS card; and

(e) any other information the board may require for evidence of operative competency.

(5) Applicants shall take the jurisprudence examination if the applicant has not practiced in Montana within the most recent five years. (History: 37-1-319, 37-4-205, MCA; IMP, 37-1-319, 37-4-307, 37-4-406, 37-29-201, MCA; NEW, 1985 MAR p. 1323, Eff. 9/13/85; AMD, 1991 MAR p. 2415, Eff. 12/13/91; AMD, 1995 MAR p. 2469, Eff. 11/23/95; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1997 MAR p. 1265, Eff. 7/22/97; AMD, 2000 MAR p. 1312, Eff. 5/26/00; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2004 MAR p. 1955, Eff. 8/20/04.)

24.138.515 CONSIDERATION OF REAPPLICATION FOR A LICENSE AFTER PREVIOUS DENIAL OR REVOCATION (1) Reapplication for a license previously denied must include evidence of rehabilitation, or elimination or cure of the cause of denial.

(2) Evaluation of reapplication for a license denied will be based upon, but not limited to:

(a) the severity of the act or omission which resulted in the denial of license; and/or

(b) the conduct of the applicant subsequent to the denial of license; and/or

(c) the lapse of time since denial of license; and/or

(d) compliance with any condition the board may have stipulated as a prerequisite for reapplication; and/or

(e) the degree of rehabilitation attained by the applicant as evidenced by statements sent directly to the board from qualified people who have professional knowledge of

the applicant; and/or

(f) personal interview by the board, at their discretion. (History: 37-1-136, 37-4-301, 37-4-402, 37-29-201, MCA; IMP, 37-1-136, 37-1-137, MCA; NEW, 1982 MAR p. 2175, Eff. 12/31/82; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.516 REINSTATEMENT OF A LICENSE FOR NON-PAYMENT OF RENEWAL FEE (1) A dentist or dental hygienist applicant requesting reinstatement must meet the requirements set forth in 37-4-307, MCA, for dentists and 37-4-406, MCA, for dental hygienists.

(2) The applicant shall make a written request and complete a form approved by the board.

(3) The applicant shall provide, but is not limited to, the following:

(a) evidence the applicant has actively and competently practiced in this or another jurisdiction within the last five years;

(b) license verification from all jurisdictions where the applicant is licensed or has held a license;

(c) evidence of continuing education as follows:

(i) 60 hours of continuing education for a dentist for the three most current renewal years; or

(ii) 36 hours of continuing education for a dental hygienist for the three most current renewal years;

(d) a current CPR or ACLS card; and

(e) any other information the board may require as evidence of operative competency.

(4) If the applicant has been out of practice for longer than five years, the applicant shall provide evidence of, but not limited to, the following:

(a) completion of:

(i) a clinical competency course(s) or skills assessment analysis approved by the board; or

(ii) a board approved regional or state examination within the most recent five years;

(b) a license verification from all jurisdictions where the applicant is licensed or has held a license;

(c) continuing education as follows:

(i) 60 hours of continuing education for a dentist for the three most current renewal years; or

(ii) 36 hours of continuing education for a dental hygienist for the three most current renewal years;

(d) a current CPR or ACLS card; and

(e) any other information the board may require as evidence of operative competency.

(5) Applicants shall take the jurisprudence examination if the applicant has not practiced in Montana within the most recent five years. (History: 37-1-131, 37-4-205, 37-4-402, MCA; IMP, 37-4-307, 37-4-406, MCA; NEW, 2004 MAR p. 1955, Eff. 8/20/04.)

24.138.517 DENTURIST LICENSE REINSTATEMENT (1) Upon

application and payment of the appropriate fee, the board may reinstate a license previously forfeited for non-payment of fee if the applicant does each of the following:

(a) presents satisfactory evidence of operative competency, which may include, but not be limited to:

(i) evidence that the applicant has actively engaged in direct clinical patient care dentistry in another jurisdiction for a minimum of 1,000 hours during the year immediately preceding the application for reinstatement; or

(ii) evidence that the applicant has been actively engaged in direct clinical patient care dentistry three of the last five years immediately preceding application for reinstatement. If the applicant has been inactive for two out of the preceding five years, the request for reinstatement will be at the board's discretion. If inactive in direct clinical patient care for five years or longer, the applicant must pass a board-approved examination; or

(iii) evidence that, within the last year, the applicant has successfully passed a board-approved examination for licensure. If the applicant must take the examination, the applicant will be exempt from the continuing education requirement.

(b) submits license verification from all jurisdictions where the applicant is licensed or has held a license;

(c) provides evidence the applicant is not the subject of an unresolved or adverse decision based on a complaint, investigation, review procedure or other disciplinary proceeding undertaken by a state, territorial, local or federal dental/denturist licensing jurisdiction, or law enforcement agency that relates to criminal or fraudulent activity, denturist malpractice or negligent denturist care;

(d) submits verification of 36 hours of continuing education related to dentistry in the 36 months immediately preceding application. Continuing education will not be required, however, if an applicant has passed the board-approved examination within the year immediately preceding application;

(e) submits a current CPR card;

(f) takes and passes the jurisprudence examination if the license was forfeited for five years or longer; and

(g) pays renewal fees for each year they were unpaid, plus a late penalty fee for each year. (History: 37-1-141, 37-29-201, MCA; IMP, 37-1-141, MCA; NEW, 1997 MAR p. 1265, Eff. 7/22/97; AMD, 2000 MAR p. 1312, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2435.)

24.138.518 RENEWALS (1) Each year licensees shall:

(a) renew their licenses by the elected date stated in ARM 8.2.203;

(b) submit an annual renewal form and fee, and a late penalty fee, if applicable;

(c) affirm completion of the appropriate continuing education required; and

(d) all active licensees shall submit a completed

affirmation statement and the expiration date of the licensees' current CPR or ACLS card.

(2) In case of default by a dentist in payment of the annual renewal fee, the dentist will be subject to 37-4-307, MCA.

(3) In case of default by a dental hygienist in payment of the annual renewal fee, the dental hygienist will be subject to 37-4-406, MCA.

(4) In case of default in payment of the annual renewal fee by a licensee denturist:

(a) The denturist must forfeit the license. The board shall give the denturist 30 days notice of the proposed forfeiture action. The notice must be sent by certified letter addressed to the last-known address of the denturist and must contain a statement of the time and place at which the forfeiture will be concluded.

(b) If the denturist pays the renewal fee, plus a delinquent fee as set forth in ARM 24.138.402, prior to the time set for forfeiture, the denturist license may not be forfeited.

(c) A denturist license forfeited for nonpayment of the renewal fee may be reinstated within five years of forfeiture if all requirements set forth in ARM 24.138.517 have been satisfied. (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-4-307, 37-4-406, 37-29-306, MCA; NEW, 1986 MAR p. 1498, Eff. 9/12/86; AMD, 1986 MAR p. 1897, Eff. 11/15/86; AMD, 1991 MAR p. 2424, Eff. 12/13/91; AMD, 1993 MAR p. 287, Eff. 2/26/93; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1999 MAR p. 209, Eff. 1/29/99; AMD, 2000 MAR p. 1312, Eff. 5/26/00; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

#### 24.138.519 GROUND FOR DENIAL OF A LICENSE (1)

Licensure may be denied based on the following grounds:

(a) failure to meet any requirements or standards established by law or rules of the board;

(b) misrepresentation of facts and information on application for licensure or renewal of license;

(c) having another person appear in the applicant's place for examination;

(d) failure to pass the licensure examination; or

(e) conduct that qualifies as grounds for discipline.

(History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-1-137, 37-29-201, MCA; NEW, 1986 MAR p. 1498, Eff. 9/12/86; AMD, 1991 MAR p. 2424, Eff. 12/13/91; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2004 MAR p. 1955, Eff. 8/20/04.)

Rules 24.138.520 through 24.138.529 reserved

#### 24.138.530 LICENSURE OF RETIRED OR NONPRACTICING DENTIST OR DENTAL HYGIENIST FOR VOLUNTEER SERVICE (1)

Retired or nonpracticing dentists and dental hygienists seeking to practice under a volunteer license shall submit, on forms provided by the board, a complete application and the following documentation:

(a) verification of graduation from a dental or dental hygiene school accredited by the American dental association commission on dental accreditation (CODA) or its successor;

(b) copies of other state licenses held;

(c) verification of licensure from any other state that the applicant is or has been licensed in;

(d) proof of operative competency by either:

(i) a verified statement that the applicant has actively and competently practiced in Montana or another jurisdiction within the last five years; or

(ii) if the applicant has been out of practice for longer than five years, the applicant shall provide, but is not limited to:

(A) proof of completion of a board approved clinical competency course(s) or skills assessment analysis; or

(B) a board approved regional or state examination within the most recent five years;

(e) verification that the applicant has maintained for at least 10 years prior to retirement, full licensure in good standing in Montana, another state or jurisdiction, Canada or the United States armed forces;

(f) a notarized statement that the applicant shall not accept any form of remuneration for any dental or dental hygiene services rendered while in possession of the volunteer license;

(g) a copy of a current ACLS or CPR card; and

(h) any other information the board may require as evidence of operative competency.

(2) The board may exempt applicants not meeting the above requirements of (1) on a case-by-case basis until July 1, 2005.

(3) The board shall review applications submitted by applicants with medically diagnosed mental or physical disabilities on a case-by-case basis.

(4) Renewal fees and late fees or a portion of such fees may be waived for eligible persons applying for licensure under this rule after July 1, 2004, upon approval of the board.

(5) Volunteer licenses must be renewed annually. (History: 37-1-131, 37-4-204, 37-4-340, MCA; IMP, 37-4-340, MCA; NEW, 2004 MAR p. 1955, Eff. 8/20/04.)

Sub-Chapters 6 through 20 reserved

Subchapter 21

Renewals And Continuing Education

#### 24.138.2101 DEFINITION OF CONTINUING EDUCATION

(1) Continuing education consists of educational activities designed to:

(a) review existing concepts and techniques,

(b) convey information beyond the basic professional education, and

(c) update knowledge on advances in dental, medical and dental hygiene sciences and denturistry practices.

(2) Continuing education programs are designed for part-time enrollment and are usually of short duration, although longer programs with structured, sequential curricula may also be included within this definition. (History: 37-1-319, 37-4-205, 37-29-201, MCA; IMP, 37-1-306, 37-1-319, 37-4-205, 37-29-306, MCA; NEW, 1993 MAR p. 287, Eff. 2/26/93; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2005 MAR p. 1396, Eff. 7/29/05.)

24.138.2102 SUBJECT MATTER ACCEPTABLE FOR DENTIST AND DENTAL HYGIENIST CONTINUING EDUCATION (1) Acceptable continuing education includes courses in which:

(a) The subject matter contributes directly to the professional competence of the licensee, or patient care rendered by the licensee. This may include, but is not limited to, the following clinical subjects relating to the dental profession:

- (i) oral surgery;
- (ii) operative dentistry;
- (iii) oral pathology;
- (iv) preventive dentistry;
- (v) orthodontics;
- (vi) clinical patient management;
- (vii) pedodontics;
- (viii) oral biology;
- (ix) periodontics;
- (x) prosthodontics;
- (xi) dental materials;
- (xii) implantology;
- (xiii) radiology;
- (xiv) infection control;
- (xv) endodontics;
- (xvi) management of medical emergencies; and
- (xvii) practice management.

(b) The information presented enables the licensee to enhance the dental health of the public.

(c) The licensee is able to apply the knowledge gained within his/her professional capacity.

(d) Instructors should be qualified with respect to program content and teaching methods used. (History: 37-1-319, 37-4-205, MCA; IMP, 37-1-306, 37-4-205, MCA; NEW, 1993 MAR p. 287, Eff. 2/26/93; AMD, 1994 MAR p. 2627, Eff. 9/23/94; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, 2003 MAR p. 2435.)

24.138.2103 SUBJECT MATTER ACCEPTABLE FOR DENTURIST CONTINUING EDUCATION (1) Acceptable continuing education includes courses in which:

(a) the subject matter contributes directly to the quality of the patient care rendered by the licensee. This includes the following subjects as they relate to the practice of denturistry:



- (i) head and oral anatomy and physiology;
- (ii) oral pathology;
- (iii) partial denture design and construction;
- (iv) microbiology;
- (v) radiology;
- (vi) clinical dental technology;
- (vii) dental laboratory technology;
- (viii) asepsis;
- (ix) clinical jurisprudence;
- (x) medical emergencies; and
- (xi) practice management.

(b) The information presented enables the licensee to enhance the dental health of the public as it relates to denturistry.

(c) The licensee is able to apply the knowledge gained within his/her practice of denturistry.

(d) Instructors should be qualified with respect to program content and teaching methods used. (History: 37-1-319, 37-29-201, MCA; IMP, 37-1-306, 37-29-306, MCA; NEW, 1993 MAR p. 287, Eff. 2/26/93; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

#### 24.138.2104 REQUIREMENTS AND RESTRICTIONS (1)

Licensees shall have completed, within a three-year renewal cycle, the following minimum number of continuing education credits of instruction in acceptable courses of continued education:

(a) for dentists, 60 per three-year cycle. Dentists who have general anesthesia or conscious sedation permits must acquire these 60 continuing education credits in addition to those required for maintenance of those permits;

(b) for dental hygienists, 36 per three-year cycle; or

(c) for denturists, 36 per three-year cycle.

(2) For the purpose of compliance, one continuing education credit will be recognized for each 60 minutes of involvement. Credit will not be earned for time spent in introductory remarks, coffee and luncheon breaks or business meetings.

(3) Courses that are unacceptable for continuing education credit include, but are not necessarily limited to, the following:

(a) self-help/pop psychology (i.e., personal goal development, transactional analysis, assertiveness training);

(b) legislative/political issues;

(c) unproven modalities or experimental techniques;

(d) basic science courses;

(e) basic life support/CPR.

(4) Continuing education may include presentation of lectures and/or participation courses related to subject matter(s) listed in ARM 24.138.2102.

(a) Three credits for each 60 minutes of initial presentation will be allowed for lecture and/or participation courses.

(b) One credit for each 60 minutes will be allowed for

repeat lectures from material previously presented.

(5) Continuing education credits will be allowed for attendance of multi-day convention type meetings per year as follows:

- (a) two credits for dental hygienists;
- (b) three credits for dentists; and
- (c) two credits for denturists. (History: 37-1-319, 37-4-205, 37-29-201, MCA; IMP, 37-1-306, 37-1-319, 37-4-205, 37-29-306, MCA; NEW, 1993 MAR p. 287, Eff. 2/26/93; AMD, 1994 MAR p. 2627, Eff. 9/23/94; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1999 MAR p. 209, Eff. 1/29/99; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2005 MAR p. 1396, Eff. 7/29/05.)

24.138.2104 REQUIREMENTS AND RESTRICTIONS (1)

Licensees shall have completed, within a three-year renewal cycle, the following minimum number of continuing education credits of instruction in acceptable courses of continued education:

(a) for dentists, 60 per three-year cycle. Dentists who have general anesthesia or conscious sedation permits must acquire these 60 continuing education credits in addition to those required for maintenance of those permits;

(b) for dental hygienists, 36 per three-year cycle; or

(c) for denturists, 36 per three-year cycle.

(2) For the purpose of compliance, one continuing education credit will be recognized for each 60 minutes of involvement. Credit will not be earned for time spent in introductory remarks, coffee and luncheon breaks or business meetings.

(3) Courses that are unacceptable for continuing education credit include, but are not necessarily limited to, the following:

(a) self-help/pop psychology (i.e., personal goal development, transactional analysis, assertiveness training);

(b) legislative/political issues;

(c) unproven modalities or experimental techniques;

(d) basic science courses;

(e) basic life support/CPR.

(4) Continuing education may include presentation of lectures and/or participation courses related to subject matter(s) listed in ARM 24.138.2102.

(a) Three credits for each 60 minutes of initial presentation will be allowed for lecture and/or participation courses.

(b) One credit for each 60 minutes will be allowed for repeat lectures from material previously presented.

(5) Continuing education credits will be allowed for attendance of multi-day convention type meetings per year as follows:

- (a) two credits for dental hygienists;
- (b) three credits for dentists; and
- (c) two credits for denturists. (History: 37-1-319, 37-4-205, 37-29-201, MCA; IMP, 37-1-306, 37-1-319, 37-4-205,

37-29-306, MCA; NEW, 1993 MAR p. 287, Eff. 2/26/93; AMD, 1994 MAR p. 2627, Eff. 9/23/94; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1999 MAR p. 209, Eff. 1/29/99; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2005 MAR p. 1396, Eff. 07/29/05.)

24.138.2105 REPORTING PROCEDURES (1) Continuing education credits may not be carried over from one three-year cycle to another.

(2) Licensees are required to keep a record of continuing education completed and make this available to the board if so requested.

(3) Licensees shall affirm their understanding of and compliance with continuing education requirements with the annual license renewal.

(4) Failure of licensee to produce records of required continuing education may result in disciplinary action. Following an audit failure, the licensee will be afforded a one-year period to gain the appropriate continuing education requirements. If compliance is not attained, disciplinary action pursuant to 37-1-312, MCA, will be taken.

(5) A random audit of the licensees will be conducted in every three-year cycle. (History: 37-1-319, 37-4-205, MCA; IMP, 37-1-306, 37-4-205, MCA; NEW, 1993 MAR p. 287, Eff. 2/26/93; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, 2003 MAR p. 2435.)

24.138.2106 EXEMPTIONS AND EXCEPTIONS (1) Licensees whose capacity to meet the continuing education requirements is restricted due to ill health or other extenuating circumstances may apply, in writing, to the board of dentistry for special consideration.

(2) New licensees shall be exempt from continuing education requirements until March 1st of the year following their initial licensure in Montana, however, they are encouraged to participate actively in continuing education programs.

(3) Inactive licensees shall be exempt from the continuing education requirements so long as the license remains on inactive status. Inactive licensees seeking to convert to an active status must comply with ARM 24.138.514. An inactive license, when activated, will begin a new three-year cycle. (History: 37-1-319, 37-4-205, 37-29-201, MCA; IMP, 37-1-306, 37-4-205, 37-29-306, MCA; NEW, 1993 MAR p. 287, Eff. 2/26/93; AMD, 1994 MAR p. 1120, Eff. 4/29/94; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

Sub-Chapter 22 reserved

Sub-Chapter 23

Unprofessional Conduct

24.138.2301 UNPROFESSIONAL CONDUCT FOR DENTISTS AND DENTAL HYGIENISTS (1) The board defines "unprofessional conduct" for dentists and dental hygienists as follows:

(a) Continuing to practice dentistry or dental hygiene when the licensee's license has been suspended, revoked or is not currently renewed.

(b) Administering, dispensing or prescribing a controlled substance scheduled in Title 50, chapter 32, MCA, other than in the course of legitimate or reputable professional practice.

(c) Having been convicted of violating a federal or state statute or rule regulating the possession, distribution or use of a controlled substance scheduled in Title 50, chapter 32, MCA.

(d) Failure to maintain an office(s) in sanitary conditions consistent with current accepted sterilization and disinfection protocols for treatment rooms, sterilization and laboratory areas, or operating under unsanitary conditions after a warning from the board.

(e) Extracting teeth or performing dental treatment upon the written or verbal prescription of someone other than a licensed dentist.

(f) Obtaining a fee or other compensation, either directly or indirectly by the representation that a manifestly incurable disease, injury or condition of a person can be cured.

(g) Testifying in court on a contingency witness-fee basis.

(h) Failing to supervise and monitor the actions of all dental auxiliaries and dental hygienists in regard to patient care.

(i) Violating the regulations concerning the administration of anesthesia.

(j) Failure to respond to correspondence from the board, or to comply with final orders of the board.

(k) Representing or recording as an oral prophylaxis, coronal polishing by itself, without an appropriately licensed dentist or licensed dental hygienist inspecting for and removing any supragingival and subgingival calculus and gingival irritants deemed necessary for removal by an appropriately licensed dentist or licensed dental hygienist.

(History: 37-1-319, 37-4-205, 37-4-408, MCA; IMP, 37-1-316, 37-4-405, 37-4-408, MCA; NEW, 1982 MAR p. 2174, Eff. 12/31/82; AMD, 1991 MAR p. 2415, Eff. 12/13/91; AMD, 1993 MAR p. 393, Eff. 3/26/93; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.2302 UNPROFESSIONAL CONDUCT FOR DENTURISTS

(1) The board defines "unprofessional conduct" as follows:

(a) discriminating in services because of race, creed, color, age or national origin;

(b) using advertising matter that contains misstatements, falsehoods, misrepresentation or wording that

may in any way reflect against a fellow licensee or other licensed health care provider;

(c) failure to maintain an office(s) in sanitary condition consistent with current accepted sterilization and disinfection protocols for treatment rooms, sterilization and laboratory areas, or operating under unsanitary conditions after a warning from the board;

(d) failing to exercise appropriate supervision over interns who are authorized to practice only under the supervision of a licensed denturist;

(e) incompetence or gross negligence in the practice of denturistry;

(f) failing to adequately maintain complete records of each patient;

(g) having been convicted of violating a federal or state statute dealing with possession, use or distribution of narcotics;

(h) obtaining a fee or other compensation, either directly or indirectly by the representation that a manifestly incurable disease, injury or condition of a person can be cured;

(i) testifying in court on a contingency-witness fee basis;

(j) fitting, attempting to fit or advertising to fit a prosthesis on or over a dental implant; and

(k) failure to respond to correspondence from the board, or failure to comply with final orders of the board. (History: 37-1-136, 37-1-319, 37-29-201, MCA; IMP, 37-1-316, 37-29-402, 37-29-403, MCA; NEW, 1986 MAR p. 1498, Eff. 9/12/86; AMD, 1991 MAR p. 2424, Eff. 12/13/91; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

## Sub-Chapter 24

### Complaint Procedures

24.138.2401 COMPLAINT PROCEDURE (1) A person, government or private entity may submit a written complaint to the board charging a licensee or license applicant with a violation of board statute or rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing, and shall be filed on the proper complaint form prescribed by the board.

(3) Upon receipt of the written complaint form, the board office shall log in the complaint and assign it a complaint number. The complaint shall then be sent to the licensee complained about for a written response. Upon receipt of the licensee's written response, both complaint and response shall be considered by the screening panel of the board for appropriate action including dismissal, investigation or a finding of reasonable cause of violation of a statute or rule. The board office shall notify both complainant and licensee of the determination made by the

screening panel.

(4) If a reasonable cause violation determination is made by the screening panel, the Montana Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken.

(5) The board will not consider anonymous complaints. (History: 37-4-205, 37-29-201, MCA; IMP, 37-1-308, 37-1-309, MCA; NEW, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 2000 MAR p. 1312, Eff. 5/26/00; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.2402 SCREENING PANEL (1) The board screening panel shall consist of three dentists, one dental hygienist, one public member and one denturist. The presiding officer of the screening panel may reappoint screening panel members, or replace screening panel members as necessary at the presiding officer's discretion. (History: 37-4-205, 37-29-201, MCA; IMP, 37-1-307, MCA; NEW, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1999 MAR p. 209, Eff. 1/29/99; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

Sub-Chapters 25 through 29 reserved

Sub-Chapter 30

Rules Of Advertising For Dentists

24.138.3001 ADVERTISING FEE INFORMATION (1) Fixed fees may be advertised for any service. It is presumed, however, that unless otherwise stated in the advertisement that a fixed fee for a service shall include the cost of all professional recognized components within generally accepted standards that are required to complete the service.

(2) A range of fees may be advertised for services and the advertisement must disclose the factors used in determining the actual fee, necessary to prevent deception to the public.

(3) Discounted fees may be advertised if the discounted fee is actually lower than the licensee's customary or normal fee charged for the service and the licensee provides the same quality and components of service and material that he or she provides at the normal, nondiscounted fee for that same service.

(4) Related services that may be required in conjunction with the advertised services for which additional fees will be charged must be identified in any advertisement.

(5) Advertised fees shall be honored for those seeking the advertised services during the entire time period stated in the advertisement whether or not the services are actually rendered or completed within that time. If there is no time period stated in the advertisement of fees, the advertised fee shall be honored for 30 days from the last day of publication or until the next scheduled publication, whichever is later. (History: 37-4-205, MCA; IMP, 37-4-205, MCA; NEW, 1991 MAR p.

2415, Eff. 12/13/91; TRANS, from Commerce, 2003 MAR p. 2435.)

24.138.3002 ADVERTISING CONTENT (1) The following acts or omissions in the context of advertisement by any dentist shall constitute unethical and unprofessional conduct and shall subject the licensee to disciplinary action pursuant to 37-1-136, MCA:

(a) Claims that the services performed, personnel employed, materials or office equipment used are professionally superior to that which is ordinarily performed or used, or that convey the message that one dentist is better than another when superiority of services, personnel, materials or equipment cannot be substantiated.

(b) The misleading use of an unearned or non-health degree in any advertisement.

(c) Promotion of a professional service that the dentist knows or should know is beyond the dentist's ability to perform.

(d) Use of advertising techniques that intimidate, exert undue pressure or undue influence over a prospective patient.

(e) Any appeal to an individual's anxiety in an excessive or unfair manner.

(f) Use of personal testimonials attesting to a dentist's competence in service or treatment that is not reasonably verifiable.

(g) Use of statistical data or other information based on past performances or other prediction of future services that creates an unjustified expectation about results that the dentist can achieve.

(h) Communication of personally identifiable facts, data, or information about a patient without first obtaining patient consent.

(i) Any misrepresentation of a material fact.

(j) Knowingly suppressing, omitting, or concealing any material fact or law without which the advertisement would be deceptive or misleading.

(k) Making statements concerning the benefits or other attributes of dental products or services involving significant risks without including an assessment of the safety and efficiencies of the products or services as well as detailing the availability of alternatives, if any, and if needed to avoid deception, an assessment of the benefits or other attributes of those alternatives.

(l) Any communication that creates an unjustified expectation concerning the potential results of any dental treatment.

(m) Failure to comply with the rules governing advertisement of dental fees and services, specialty advertisement and advertising records.

(n) The use of "bait and switch" advertisements. In investigating complaints of "bait and switch" advertising, the board may require the dentist to furnish to the board or its representative data or other evidence pertaining to sales made at the advertised fee as well as other sales.

(o) Misrepresentation of a dentist's credentials, training, experience or ability.

(p) Failure to include the corporation, partnership or individual dentist's name and address and telephone number in any advertisement. Any dental corporation, partnership or association that advertises by use of a trade name or otherwise fails to list all dentists practicing at a particular location shall provide a list of all dentists practicing at that location upon request and conspicuously display in the dentist's office a directory listing all dentists practicing at that location.

(q) Failure to disclose providing compensation or other consideration to representatives of the press, radio, television or other medium in return for any advertisement unless the nature, format or medium of such advertisement makes the fact of compensation or consideration evident.

(r) Use of the name of any dentist formerly practicing at or associated with any advertised location more than 30 days after that dentist has left the practice. This rule shall not apply to a retired or deceased former associate who practiced dentistry in association with one or more of the present occupants if the status of the former associate is disclosed in any advertisement or sign.

(s) Stating or implying that a certain dentist provides all services when any such services are performed by another dentist.

(t) Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services. (History: 37-4-205, MCA; IMP, 37-4-205, MCA; NEW, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

#### 24.138.3003 ADVERTISING RECORDS AND RESPONSIBILITY

(1) Each dentist who is a principal partner, or officer of a firm or entity identified in any advertisement, is jointly and severally responsible for the form and content of any advertisement. This provision also shall include any licensed professional employees acting as an agent of such firm or entity.

(2) All advertisements are presumed to have been approved by the dentist named therein.

(3) A recording of every advertisement communicated by electronic media and a copy of every advertisement communicated by print media, as well as a copy of any other form of advertisement, indicating the date, place and duration of the advertisement shall be retained by the dentist for a period of two years from the last date of broadcast or publication and shall be made available to the board or its representative upon request.

(4) When placing advertising, the dentist must possess such information which, when produced, would substantiate the truthfulness of any assertion or representation of material



fact made in the advertisement. (History: 37-4-205, MCA; IMP, 37-4-205, MCA; NEW, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.3004 SEVERABILITY (1) It is hereby declared that the sections, clauses, sentences and parts of these rules are severable, are not matters of mutual essential inducement, and any of them shall be rescinded if these rules would otherwise be unconstitutional or ineffective. If any one or more sections, clauses, sentences or parts shall for any reason be questioned in any court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance. (History: 37-4-205, MCA; IMP, 37-4-205, MCA; NEW, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, 2003 MAR p. 2435.)

## Sub-Chapter 31

### Specialty Practice Provisions

24.138.3101 GENERAL STANDARDS FOR SPECIALTIES (1) The following are included within the standards of the American dental association for determining what dentists have the education experience and other appropriate requirements for announcing specialization and limitation of practice:

(a) The special area(s) of dental practice and an appropriate certifying board must be approved by the American dental association.

(b) Dentists who announce as specialists must have successfully completed an educational program accredited by the commission on dental accreditation, two or more years in length, as specified by the council on dental education or be diplomates of a nationally-recognized certifying board.

(c) The practice carried on by dentists who announce as specialists shall be limited exclusively to the special area(s) of dental practice announced by the dentist. (History: 37-4-205, MCA; IMP, 37-4-205, 37-4-301, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1997 MAR p. 1265, Eff. 7/22/97; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.3102 SPECIALTY ADVERTISING (1) The special areas of dental practice approved by the American dental association and the designation for ethical specialty announcement limitation of practice are:

- (a) dental public health;
- (b) endodontics;

- (c) oral pathology;
- (d) oral and maxillofacial surgery;
- (e) orthodontic dentofacial orthopedics;
- (f) pedodontics (dentistry for children);
- (g) periodontics;
- (h) prosthodontics;
- (i) oral and maxillofacial radiology; and
- (j) other board approved specialties.

(2) A licensee shall not advertise using the terms "specialist", "specializing" or "practice limited to" unless the licensee has met the board standards for specialization as set forth in ARM 24.138.3101 and 24.138.3103 and the branch of dentistry advertised as a specialty branch of dentistry is sanctioned as a specialty branch of dentistry by (1).

(3) A licensee who possesses a verifiable combination of education and experience is not prohibited from including in his practice one or more branches of dentistry. Any advertisement of such practice shall not make use of the terms "specialty", "specializing", "specialist" or "practice limited to" and must contain the statement "the services are being performed or provided by a general dentist," or words to that effect, and such statement must appear or be expressed in the advertisement as conspicuously as the branch of dentistry advertised. (History: 37-4-205, MCA; IMP, 37-4-205, MCA; NEW, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.3103                      STANDARDS FOR MULTIPLE-SPECIALITY ANNOUNCEMENTS (1) Educational criteria for announcements by dentists in additional recognized specialty areas are the successful completion of an educational program accredited by the commission on dental accreditation in each area for which the dentist wishes to announce. (History: 37-4-205, MCA; IMP, 37-1-131, 37-4-205, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

## Sub-Chapter 32

### Anesthesia Rules

24.138.3201                      PRACTICE OF ANESTHESIA (1) Dentists licensed in this state shall not apply general anesthesia or conscious sedation techniques, unless and until they have met all of the requirements set forth in these anesthesia rules. To "apply" general anesthesia or conscious sedation means to administer the agent to the patient and does not include performing dental procedures upon a patient to whom another person, qualified under 37-4-511, MCA, has given the agent.

(2) Violation of these rules shall constitute grounds for disciplinary actions as provided in 2-4-631(3) and 37-1-136, MCA.

(3) Performing anesthetic procedures after the effective

date of this rule without an appropriate permit will be interpreted by the board as unprofessional conduct under ARM 24.138.2301. This is an interpretive section. (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1987 MAR p. 155, Eff. 2/14/87; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.3202 PERMIT REQUIRED FOR ADMINISTRATION OF ANESTHESIA (1) In order to administer general anesthesia or conscious sedation a dentist must possess a permit from the board to do so. Such a permit must be renewed every year.

(2) In order to obtain a permit the dentist makes application on a form provided by the board and must meet specific minimum qualifying standards as set forth in the rules.

(3) The board may grant to a licensed dentist, upon receipt of an application and payment of the initial inspection fee, a temporary permit authorizing the dentist to administer general anesthesia, light general anesthesia, or conscious sedation for a period not to exceed 120 days or until the inspectors are able to make the inspection, whichever event occurs first. This temporary permit may be extended upon board approval. (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1987 MAR p. 155, Eff. 2/14/87; AMD, 1989 MAR p. 2187, Eff. 12/22/89; AMD, 1993 MAR p. 393, Eff. 3/26/93; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.3203 MINIMUM QUALIFYING STANDARDS (1) With respect to general anesthesia, no dentist shall be permitted to administer or monitor general anesthesia during a dental procedure or dental-surgical procedure unless and until he or she satisfies the qualifications set forth in 37-4-511(1), MCA.

(2) Dentists providing general anesthesia or conscious sedation must present evidence of successful completion of an advanced course in cardiac life support within the three most recent years. As used in this subchapter, the terms "general anesthesia" and "conscious sedation" do not include "nitrous oxide/oxygen sedation" used alone or in conjunction with a single oral sedative agent.

(3) With respect to conscious sedation, no dentist shall administer drugs to achieve the state known as conscious sedation during a dental procedure or a dental-surgical procedure unless he or she has received formal training in conscious sedation techniques from an institution, organization, or training course approved by the board consisting of a minimum of 40 clock hours of didactic instruction and 20 clock hours of additional patient contact. The dentist must furnish evidence of having completed this training.

(a) This requirement does not apply to the

administration of an oral drug for the purpose of providing mild relaxation.

(b) All requirements for the use of conscious sedation or general anesthesia will apply as indicated, regardless of the agent used or the route of administration, when the intended or probable effect is a level of depression greater than mild relaxation.

(4) With respect to nitrous oxide/oxygen sedation used alone or in conjunction with a single oral sedative agent, no dentist shall use nitrous oxide/oxygen on a patient unless he has completed a course of instruction of at least 14 clock hours of didactic and clinical training. This instruction must include didactic and clinical instruction in an accredited dental school, hospital, or dental society sponsored course, and must include instruction in the safety and management of emergencies.

(a) A dentist who practices dentistry in Montana who can provide satisfactory evidence of competence and skill in administering nitrous oxide/oxygen sedation by virtue of experience and/or comparable alternative training shall be presumed by the Montana board of dentistry to have appropriate credentials for the use of nitrous oxide/oxygen sedation. (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1987 MAR p. 155, Eff. 2/14/87; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1993 MAR p. 393, Eff. 3/26/93; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.3204 MINIMUM MONITORING STANDARDS (1) Minimum standards for monitoring patients for general anesthesia shall include the following:

(a) preoperative:

(i) vital signs - to include blood pressure, pulse and respiratory rate. Temperature may be necessary, and

(ii) electrocardiac monitoring.

(b) intraoperative:

(i) vital signs - to include blood pressure, pulse and respiratory rate to be taken and recorded every five minutes, and

(ii) precordial stethoscope used to monitor respiratory rate and pulse rate, and

(iii) pulse oximetry, and

(iv) continuous electrocardiac monitoring, and

(v) an intravenous line, and

(vi) continuous monitoring of skin and mucosal color, and

(vii) additional monitoring devices as indicated.

(c) postoperative:

(i) vital signs - to include blood pressure, pulse, respiratory rate recorded at the completion of the procedure and prior to discharge, and

(ii) the patient must not leave the recovery area until the cardiovascular and respiratory stability are assured and the patient is awake and oriented.

(2) The minimum standards for monitoring conscious sedation patients shall include the following:

(a) preoperative:

(i) vital signs to include blood pressure, pulse and respiratory rate,

(ii) blood pressure monitoring for pediatric patients only as indicated.

(b) intraoperative:

(i) monitoring need not be applied to the fully-awake and alert patient.

(ii) vital signs - to include blood pressure, pulse and respirations to be monitored and recorded at appropriate intervals. Only appropriate blood pressure monitoring for pediatric patients need be recorded,

(iii) a precordial stethoscope used to continually monitor respiration and pulse rate, and

(iv) pulse oximetry, and

(v) continuous monitoring skin and mucosal color.

(c) postoperative:

(i) vital signs, blood pressure pulse and respirations should be taken at completion of the procedure and prior to discharge,

(ii) only appropriate blood pressure monitoring for pediatric patients need be recorded,

(iii) prior to discharge cardiovascular and respiratory systems must be adequate.

(3) Minimum standards for monitoring nitrous oxide/oxygen sedation used alone or in conjunction with a single oral sedative agent shall include the following:

(a) when the dentist who administers the nitrous oxide/oxygen is not in the operatory there must be a dental auxiliary who remains with the patient and provides direct observation. The dental auxiliary must have specific instruction in the observation of nitrous oxide/oxygen sedated patients and shall monitor the patient until discharged.

(4) During dental procedures the facility must be staffed by supervised monitoring personnel all of whom are capable of handling procedures, problems, and emergency incidents and have successfully completed basic life support.

(a) With respect to a full general anesthesia facility, in addition to the dentist and dental assistant, there must be at least one person present to monitor vital signs. That person must be either:

(i) an anesthesiologist licensed to practice medicine in the state of Montana; or

(ii) a certified registered nurse anesthetist recognized in that specialty by the Montana board of nursing; or

(iii) a trained health professional who has received at least one year of postgraduate training in the administration of general anesthesia.

(b) With respect to light general anesthesia, in addition to the dentist and dental assistant, there must be one person present whose duties are to monitor vital signs. This person must be trained in basic life support and their

task dedicated to monitoring.

(c) When conscious sedation is used, the dentist shall be qualified and permitted to administer the drugs and appropriately monitor the patient, and have successfully completed a course in advanced cardiac life support. In addition to the dentist, at least one other person on staff and present in the office must have successfully completed basic life support. (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.3205 FACILITY STANDARDS (1) A general anesthesia facility under these rules must contain a minimum of equipment, supplies and drugs, including, but not limited to, the following:

- (a) a positive pressure oxygen delivery system;
- (b) stethoscope and sphygmomanometer;
- (c) laryngoscope, endotracheal tubes and a Magill forcep;
- (d) oral pharyngeal and/or nasopharyngeal airways;
- (e) electrocardiac monitor and defibrillator;
- (f) appropriate drugs for emergencies to include drugs to provide advanced cardiac life support;

- (g) a precordial stethoscope;
- (h) pulse oximeter; and
- (i) suction devices.

(2) A conscious sedation facility under these rules must contain a minimum of equipment, supplies, and drugs, including, but not limited to, the following:

- (a) a positive pressure oxygen delivery system;
- (b) precordial stethoscope;
- (c) pulse oximeter;
- (d) stethoscope and sphygmomanometer;
- (e) oral pharyngeal and/or nasopharyngeal airways;
- (f) appropriate drugs for emergencies; and
- (g) suction devices.

(3) A facility in which nitrous oxide/oxygen, used alone or in conjunction with a single oral sedative agent, is administered must contain a minimum of equipment and supplies appropriate to meet emergencies. (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1987 MAR p. 155, Eff. 2/14/87; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1994 MAR p. 1130, Eff. 4/29/94; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.3206 ON-SITE INSPECTION OF FACILITIES (1) Each facility where conscious sedation or general anesthesia is to be provided shall be initially inspected by a team appointed by the board prior to the initial issuance of the appropriate permit to administer anesthesia on the premises, and at intervals not to exceed five years. Adequacy of the facility and competency of the anesthesia team will be evaluated by the

inspection team. The inspection team shall consist of at least two individuals. Any dentist whose facility is to be inspected shall be notified at least 30 days prior to the inspection and the names of the inspection team shall be provided to him.

(2) The on-site inspection shall include a test of the applicant and his staff on their abilities to recognize and manage complications likely to occur considering the techniques being used. Early recognition of complications will be emphasized. The facility must be inspected for the presence of drugs and equipment appropriate for the level of sedation or anesthesia to be provided. Monitoring assistants shall be examined for their knowledge of their respective roles in normal operating procedures and in various emergency situations. The inspection team shall evaluate office staff in proficiency in handling emergency procedures. The inspection team shall evaluate the accuracy of anesthesia record keeping.

(3) If the on-site inspection team finds deficiencies present in the inspected office, the facility shall be given 30 days to comply with the recommendations of the inspection team. If, at the completion of this 30 day period, the deficiencies have not adequately been rectified, the board will limit the practitioner's permit to apply general anesthesia or conscious sedation only in qualifying facilities.

(4) If serious life-threatening deficiencies are found by the on-site inspection team, the board will immediately limit the practitioner's permit by refusing to permit the administration of general anesthesia or conscious sedation on the premises.

(5) An individual who provides anesthesia at multiple facilities must be inspected at one facility only.

(6) Five year reinspections may be performed by one inspector unless the dentist being inspected requests two inspectors. (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.3207 REQUIREMENTS FOR CONTINUING EDUCATION IN ANESTHESIA

(1) All dentists holding permits to provide general anesthesia must submit evidence of having attended a minimum of 20 clock hours of continuing education every three years.

(2) All dentists holding permits to provide conscious sedation must submit evidence of having attended a minimum of 12 clock hours of continuing education every three years.

(3) The education must be in one or more of the following fields:

- (a) general anesthesia;
- (b) conscious sedation;
- (c) physical evaluation;
- (d) medical emergencies;

- (e) monitoring and the use of monitoring equipment;
- (f) pharmacology of utilized drugs;
- (g) advanced cardiac life support.
- (4) Continuing education may include presentation of lectures and/or participation courses related to subject matter(s) listed in this rule.
  - (a) Three credits for each 60 minutes of initial presentation will be allowed for lecture and/or participation courses.
  - (b) One credit for each 60 minutes will be allowed for repeat lectures from material previously presented.
- (5) All anesthesia permit holders shall affirm their understanding of and compliance with continuing education requirements on the annual license renewal.
- (6) Failure of licensee to produce records of required continuing education may result in disciplinary action.
- (7) A random audit of licensees may be conducted in every three-year cycle. (History: 37-1-131, 37-1-319, 37-4-205, MCA; IMP, 37-1-319, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1999 MAR p. 209, Eff. 1/29/99; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2005 MAR p. 1396, Eff. 7/29/05.)

24.138.3208 REPORTING ADVERSE OCCURRENCES (1) All dentists engaged in the practice of dentistry in the state of Montana must submit written reports to the board within seven days of any incident, injury or death resulting in temporary or permanent physical or mental disability, or death involving the application of general anesthesia, conscious sedation or nitrous oxide/oxygen sedation administered to any dental patient for whom said dentist, or any other dentist, has rendered any dental or medical service. Routine hospitalization to guard against postoperative complications or for patient comfort need not be reported where complications do not thereafter result in injury or death as herein before set forth. The report required by this rule shall include, but not be limited to, the following information:

- (a) a description of the dental procedure;
- (b) a description of the physical condition of the patient unless class I (as defined by the American society of anesthesiologists);
- (c) a list of drugs and dosages administered and routes of administration;
- (d) a detailed description of techniques used in the administration of the drugs utilized;
- (e) a description of the adverse occurrences;
- (f) a description in detail of symptoms of any complications, including, but not be limited to, onset of problems and symptoms of the patient; and
- (g) a description of the patient's condition upon termination of any procedure undertaken. (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff.



10/31/03.)

24.138.3209 ANESTHESIA FEE SCHEDULE

|     |                                             |        |
|-----|---------------------------------------------|--------|
| (1) | Full general anesthesia application fee     | \$ 200 |
| (2) | Full general anesthesia permit renewal fee  | 25     |
| (3) | Light general anesthesia application fee    | 200    |
| (4) | Light general anesthesia permit renewal fee | 25     |
| (5) | Conscious sedation application fee          | 200    |
| (6) | Conscious sedation permit renewal fee       | 25     |
| (7) | Initial inspection fee                      | 200    |
| (8) | Reinspection fee                            | 150    |

(History: 37-1-131, 37-4-205, MCA; IMP, 37-1-134, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1994 MAR p. 3090, Eff. 12/9/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)